REMARKS

This amendment is intended as a full and complete response to the Action mailed August 19, 2003. In the Action, the Examiner notes that claims 1-20 are pending, of which claims 1-20 stand rejected. By this amendment, claims 1-20 continue unamended.

In view of both the amendments presented above and the following discussion, the applicants submit that none of the claims now pending in the application are non-enabling, anticipated, or obvious under the respective provisions of 35 U.S.C. §§102 and 103. Thus, the Applicants believe that all of the pending claims are now in allowable form.

OBJECTIONS

The Examiner objected to the format of the Abstract, as originally filed. The Applicants have filed a new Abstract in accordance with 37 C.F.R. §1.72. In view of the new Abstract, the Applicants request reconsideration and withdrawal of the objection to the Specification.

REJECTIONS

REJECTION OF CLAIMS UNDER 35 U.S.C. §102

The Examiner has rejected claims 1-5, 7-13 and 15-20 under 35 U.S.C. 102(e) as being anticipated by Gordon et al. (U.S. Patent Pub. No. 2003/0052905) ("Gordon"). The Applicants respectfully traverse the rejection.

Gordon discloses a method and apparatus that provides an interactive menu structure (i.e., a navigator) for an on-screen program guide for use with an information distribution system. The invention is implemented as one or more interrelated "applets" which, when taken together, form the navigator of the present invention. When a user selects a particular icon, the graphic object in the overlay plane is altered to de-emphasize or emphasize the icon or the video underlying the graphic object. In other words, the object is altered from one state to another state to facilitate the emphasis/de-emphasis of a particular region of the menu.

In addition, Gordon indicates, in paragraph 107, that "[b]riefly, the invention operates to maximally utilize the bandwidth within an interactive information distribution system by allocating system functionality to system components." Gordon provides more detail with respect to how Gordon utilizes bandwidth, in the description of Figure 21. Specifically, paragraphs 111-115 only state that the video streams are suitable for providing the video information necessary to support the IPG display.

The Applicants disclose methods for bandwidth management when finite bandwidth is available. For example, the Applicants allocate bandwidth for the transmission of IPG page(s) and video sequences before their transmission. The Applicants' independent claims 1 and 10 recite embodiments which contain these features. The Applicants' claim 1 recites, in part:

> pre-allocating a broadcast bandwidth in the communications network for common video sequences to be transmitted by a broadcast technique;
>
> transmitting in the broadcast bandwidth the common video sequences to the plurality of terminals by way of the broadcast technique;
>
> receiving a request for a specific video sequence from a specific terminal via the communications network;
>
> allocating a demandcast bandwidth in the communications network for the specific video sequence; and
>
> transmitting in the demandcast bandwidth the specific video sequence to the specific terminal via the communications network. (Emphasis added).

The Applicants' claim 10 recites in part:

> predetermining a set of video sequences to be broadcast;
>
> allocating a broadcast bandwidth within a network with a finite bandwidth for the set of video sequences;
>
> broadcasting the set of video sequences via the broadcast bandwidth to a plurality of terminals;
>
> receiving a request from a specific terminal for a specific video sequence which is not within the set of video sequences to be broadcast;
>
> allocating a demandcast bandwidth within the network for the specific video sequence;
>
> transmitting the specific video sequence via the demandcast bandwidth to the specific terminal to fulfill the request. (Emphasis added).

The Applicants' methods prevent the usage of extra bandwidth. In one embodiment, the method allocates bandwidth for the transmission of a stream of common video sequences and transmits the common video sequences in accordance with the allocated bandwidth. Thus, only the bandwidth that is necessary for the transmission of the video sequences is used. Subsequently, a request for another video sequence may be received. The method allocates bandwidth sufficient for the transmission of the requested video sequence and transmits the requested video sequence in accordance with the newly allocated bandwidth.

Gordon does not disclose transmission of video sequences in accordance with a pre-allocated bandwidth, as claimed by the Applicants. In fact, Gordon only discloses transmission of IPG pages and applets in available bandwidth.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984)(citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 U.S.P.Q. 193 (Fed. Cir. 1983)) (emphasis added). The Gordon reference fails to disclose each and every element of the claimed invention, as arranged in the claim.

As such, the Applicants submit that independent claims 1 and 10 are not anticipated under 35 U.S.C. §102 and are fully patentable thereunder. Furthermore, dependent claims 2-5 and 7-9 (which depend, either directly or indirectly, from independent claim 1) and claims 11-13 and 15-20 (which depend, either directly or indirectly, from independent claim 10) are also patentable at least for their dependency upon a patentable independent claim. At least the reasons given above, the Applicants submit that claims 1-5, 7-13, and 15-20 are not anticipated under 35 U.S.C. §102 and are fully patentable thereunder. Therefore, the Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. §102 rejection.

REJECTION OF CLAIMS UNDER 35 U.S.C. § 103(a)

The Examiner rejected claims 6 and 14 under 35 U.S.C §103 as being obvious and unpatentable over Gordon in view of Allison et al. U.S. Patent No. 6,262,722, issued July 17, 2001) ("Allison"). The rejection is respectfully traversed.

The arguments presented above with respect to Gordon in the 35 U.S.C. §102 rejection are applicable with respect to the current rejection. As such, and for brevity, the arguments are not repeated but are incorporated into the current section. In view of the previous arguments, the Applicants submit that Gordon does not render Applicants' claims 1 and 10 obvious. In addition, the Applicants' claims 6 and 14 depend from claims 1 and 10, respectively, and recite additional features therefor. As such, claims 6 and 14 are also not rendered obvious by Gordon. The addition of Allison does not correct the shortcomings of Gordon.

Allison discloses an interactive program guide system. The program guide system has a logically flat navigator menu structure made up of program guide categories and selectable program guide options. Program guide categories correspond to fairly broad groups of program guide features. Selectable program guide options correspond to more specific program guide features. Each program guide category has associated selectable program guide options. Allison further discloses how the program guide categories and selectable program guide options are displayed. See Allison Abstract.

However, Allison is also silent with respect to the allocation of bandwidth, as recited and explained above with respect to Applicants' claims 1 and 10. As such, Allison also does not render Applicants' claims 6 and 14 obvious.

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 U.S.P.Q. 1021, 1024 (Fed. Cir. 1984) (emphasis added). Thus, it is impermissible to focus either on the "gist" or "core" of the invention, Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 230 U.S.P.Q. 416, 420 (Fed. Cir. 1986) (emphasis added). Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties

and the problem it solves. In re Wright, 6 U.S.P.Q. 2d 1959, 1961 (Fed. Cir. 1988) (emphasis added).

As such, the applicants submit that claims 6 and 14 are not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, the applicants respectfully request that the rejection be withdrawn.

CONCLUSION

Thus, the Applicants submit that the pending claims are in condition for allowance. Furthermore, the Abstract has been amended as requested by the Examiner. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Frank W. Tolin, Esq. or Eamon J. Wall, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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